

1 SENATE BILL 296

2 **52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015**

3 INTRODUCED BY

4 Sander Rue

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9  
10 AN ACT

11 RELATING TO EMPLOYMENT LAW; REQUIRING AN EMPLOYER TO KEEP A  
12 RECORD OF HOURS WORKED AND WAGES PAID TO EACH EMPLOYEE FOR AT  
13 LEAST THREE YEARS; ALLOWING THE DIRECTOR OF THE LABOR RELATIONS  
14 DIVISION OF THE WORKFORCE SOLUTIONS DEPARTMENT TO NOT BE  
15 REQUIRED TO PAY COURT COSTS OR FEES IN A WAGE CLAIM ACTION  
16 BROUGHT BY THE DIRECTOR.

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18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

19 SECTION 1. Section 50-4-9 NMSA 1978 (being Laws 1937,  
20 Chapter 109, Section 9) is amended to read:

21 "50-4-9. RECORDS, SUBPOENAS, ETC.--

22 [~~a~~] A. Every employer shall keep a true and  
23 accurate record of hours worked and wages paid to each  
24 employee. The employer shall keep such records on file for at  
25 least [~~one year~~] three years after the entry of the record.

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1           ~~[(b)]~~ B. The ~~[labor commissioner and his]~~ director  
2 of the labor relations division of the workforce solutions  
3 department and the director's authorized representatives shall  
4 have the right at all reasonable times to inspect such records  
5 for the purpose of ascertaining whether the provisions of ~~[this~~  
6 ~~act]~~ Sections 50-4-1 through 50-4-12 NMSA 1978 are complied  
7 with.

8           ~~[(c)]~~ C. Any interference with the ~~[labor~~  
9 ~~commissioner or his]~~ director or the director's authorized  
10 representatives in the performance of their duties shall be  
11 deemed a violation of ~~[this act]~~ Sections 50-4-1 through  
12 50-4-12 NMSA 1978 and punished as such.

13           ~~[(d)]~~ D. The ~~[labor commissioner and his]~~ director  
14 and the director's authorized representatives shall have the  
15 power to administer oaths and examine witnesses under oath,  
16 issue subpoenas, compel the attendance of witnesses and the  
17 production of payroll records and take depositions and  
18 affidavits in any proceedings before ~~[said labor commissioner]~~  
19 the director.

20           ~~[(e)]~~ E. In case of failure of any person to comply  
21 with any subpoena lawfully issued or upon the refusal of any  
22 witness ~~[or witnesses]~~ to testify ~~[upon]~~ on any matter on which  
23 ~~[he or they]~~ the witness may be lawfully interrogated, the  
24 ~~[labor commissioner]~~ director may apply to the district court  
25 in the proper county or to the judge thereof for a writ of

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1 attachment to compel [~~said~~] the witness to respond to [~~said~~]  
2 the subpoena or to testify, as the case may be."

3 SECTION 2. Section 50-4-12 NMSA 1978 (being Laws 1937,  
4 Chapter 109, Section 13, as amended) is amended to read:

5 "50-4-12. WAGE CLAIM ACTIONS--COSTS--JURISDICTION--  
6 REPRESENTATION BY DISTRICT ATTORNEY--APPEALS.--

7 A. In all actions brought by the director of the  
8 labor [~~and industrial~~] relations division of the [~~labor~~]  
9 workforce solutions department as assignee under the provisions  
10 of Section 50-4-11 NMSA 1978, the director shall not be  
11 required to pay court costs or filing fees, and the director  
12 shall be entitled to free service of process and shall not be  
13 obligated or required to give any bond or other security for  
14 costs.

15 B. Any sheriff, constable or other officer requested  
16 by the director to serve any summons, writ, complaint or order  
17 shall do so without requiring the director to pay any fees or  
18 furnish any security or bond.

19 C. Where all claims joined together do not exceed in  
20 the aggregate the jurisdictional limit of the magistrate or  
21 metropolitan court, the director may institute an action  
22 against the employer in any magistrate or metropolitan court  
23 having jurisdiction without referring the claim to the district  
24 attorney. In the event that during the course of the  
25 proceedings representation by an attorney at law becomes

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1 necessary or, in the director's judgment, advisable, the  
2 director shall so notify the district attorney, and it shall  
3 then be the duty of the district attorney or the district  
4 attorney's assistant to appear for the director in the cause.

5 D. In the event the cause is appealed by the  
6 director, no bond or other security shall be required or fees  
7 charged the director for court costs or sheriff's fees in  
8 serving process."

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